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10 **One of the Attorneys for**
11 **Plaintiff Oula Zakaria and the Class**

12 ADDITIONAL COUNSEL LISTED ON
13 SIGNATURE PAGE

14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 OULA ZAKARIA, individually and as
17 a representative of the class,

18 Plaintiff,

19 vs.

20 GERBER PRODUCTS CO., a
21 corporation, d/b/a NESTLE
22 NUTRITION, NESTLE INFANT
23 NUTRITION, AND NESTLE
24 NUTRITION NORTH AMERICA,

25 Defendant.

Case No. 2:15-cv-0200-JAK-E

Hon. John A. Kronstadt

**DECLARATION OF STEPHEN J.
FEARON, JR. IN SUPPORT OF
APPLICATION OF PLAINTIFF
FOR LEAVE TO FILE UNDER
SEAL PORTIONS OF
PLAINTIFF'S SUPPLEMENTAL
MEMORANDUM OF POINTS AND
AUTHORITIES**

Courtroom: 10B

1 I, Stephen J. Fearon, Jr., declare as follows:

2 1. I am an attorney duly admitted to practice before this Court *pro hac*
3 *vice* and am a partner of Squitieri & Fearon, LLP, one of the attorneys of record for
4 Plaintiff Oula Zakaria (“Zakaria”) and the Class in the above-captioned case. I have
5 personal knowledge of the facts set forth herein, and if called as a witness, I could
6 and would competently testify on the matters stated herein.

7 2. I submit this declaration in support of the contemporaneously filed
8 Application of Plaintiff for Leave to File Under Seal Portions of Plaintiff’s
9 Supplemental Memorandum of Points and Authorities (“Application”).

10 3. The Protective Order entered in this action on October 27, 2015 permits
11 the parties to designate deposition testimony concerning confidential, proprietary, or
12 private information. Dkt. No. 86 §§ 1-2.

13 4. The Memorandum of Points and Authorities, discuss, quote, and/or
14 refer to (1) documents produced by Defendant Gerber Products Co. (“Defendant”) in
15 discovery and designated as “Highly Confidential – Attorneys Eyes Only”,
16 “Confidential – Attorneys Eyes Only”, and “Attorneys Eyes Only”, (2) deposition
17 transcripts that were designated by Defendant as “Highly Confidential – Attorneys
18 Eyes Only”. These documents relate to research and strategy concerning the
19 marketing and science behind Defendant’s infant formula products and Defendant’s
20 competitors’ infant formula products.

21 5. Under the Protective Order, Zakaria may not file the materials
22 Defendant designated in the public record without a Court Order or permission from
23 Defendant. Dkt. No. 86 § 9. Zakaria’s Application is narrowly tailored to seal only
24 those materials containing information marked “High Confidential – Attorneys Eyes
25 Only” or “Confidential – Attorneys Eyes Only” by the parties.

26 6. In accordance with Local Rule 79-5.2.2(b), Zakaria conferred with
27 Defendant in an attempt to eliminate or minimize the need for filing under seal by
28

1 means of redaction. Zakaria's counsel notified Defendant's counsel on February 13,
2 2017 of Zakaria's intention to file the above-identified documents that Defendant
3 designated and to inquire if the documents could be filed publicly without redaction
4 or if Defendant would de-designate any of the documents it designated. On that
5 same day Defendant's counsel indicated that Defendant would not change its
6 confidentiality designations on the above-identified documents. Upon information
7 and belief, Defendant will file a declaration in support of Zakaria's Application
8 pursuant to Local Civil Rule 79-5.2.2(b)(i).

9 7. Accordingly, Zakaria respectfully requests that the Court grant her
10 application to file and maintain under seal the documents and portions of documents
11 identified in paragraph 4 above.

12
13 I declare under penalty of perjury that the foregoing is true and correct
14 pursuant to 28 U.S.C. § 1746.

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16 Executed on February 13, 2017, at New York, New York.

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18 /s/ Stephen J. Fearon, Jr.
19 Stephen J. Fearon, Jr.
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